



City of Seattle

Gregory J. Nickels, Mayor

Department of Design, Construction and Land Use

D. M. Sugimura, Acting Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

Application Number: 2206883

Applicant Name: King County (Terry Smith)

Address of Proposal: 760 South Portland Street

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit to replace and relocate an existing emergency back-up generator accessory to an existing sewer facility. The project includes construction of a new 80 square foot concrete pad. SEPA Environmental Determination prepared by King County.

The following approvals are required:

Shoreline Substantial Development Permit to allow a utility service use in the Urban Industrial environment - Seattle Municipal Code (SMC) 23.60.020.

SEPA DETERMINATION: ☒ Exempt ☐ DNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading or demolition or
involving another agency with jurisdiction.

BACKGROUND DATA

Site Description

The site is located in a General Industrial 1 zone with a 65 foot height limit (IG1 U/65') and an Urban Industrial (UI) shoreline environment. The site is located on the southwest side of the Duwamish River. The site is relatively flat and is mapped as being located in liquefaction and flood prone areas.

Area Development

Development in the vicinity consists primarily of industrial uses. A heavy volume of traffic travels along West Marginal Way SW three blocks to the west. Cargo, freight, and other industrial marine transportation travels past the site on the Duwamish River.

Description Proposal

The proposed project involves the construction of an approximately 8 by 11 foot structure immediately adjacent to the existing regulator building to house a new 13 kW emergency generator. The existing 8th Avenue South regulator station is located at 60 South Portland Street in Seattle. Approximately 20 cubic yards of excavation would be associated with the project. The Duwamish River is located approximately 60 feet east of the proposed structure. The contractor would utilize construction related Best Management Practices such as temporary erosion and sediment control measures to minimize the potential for erosion during construction. The project is to replace the existing back-up emergency generator.

Public Comment

No comment letters were received during the public comment period which ended December 6, 2002.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: *A substantial development permit shall be issued only when the development proposed is consistent with:*

- A. The policies and procedures of Chapter 90.58 RCW;*
- B. The regulations of this Chapter; and*
- C. The provisions of Chapter 173-27 WAC*

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

A. The policies and procedures of Chapter 90.58 RCW;

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting public rights of navigation and corollary incidental rights.

Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle and other jurisdictions with shorelines, adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60 that also incorporates the provisions of Chapter 173.27 WAC. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions.

The proposed new back-up emergency generator will further the public interests of protecting the shorelines, and will not interfere with the public's use of the water. The emergency back-up generator will be used to prevent overflows in the event of a power outage. The subject application is consistent with the procedures outlined in RCW 90.58.

B. The regulations of this Chapter; and

Chapter 23.60 of the Seattle Municipal Code is known as the "Seattle Shoreline Master Program". In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SMC 23.60.030 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shorelines area (SMC 23.60.064). In order to obtain a shoreline substantial development permit, the applicant must show that the proposal is consistent with the shoreline policies established in SMC 23.60.004 which are found in the Seattle Comprehensive Plan, and meets the criteria and development standards for the shoreline environment in which the site is located; any applicable special approval criteria; general development standards; and the development standards for specific uses.

Shoreline Environment: Development Standards

The subject property is classified as a waterfront lot (SMC 23.60.924) and is located within an Urban Industrial (UI) environment, as designated by the Seattle Shoreline Master Program. The proposal is subject to the Shoreline Policies of SMC 23.60.004 since the subject property is located within a shoreline environment. The proposed back-up generator pad requires a Shoreline Substantial Development Permit, pursuant to SSMP 23.60.020. The proposed back-up generator pad is part of a public facility permitted in the UI shoreline environment SMC 23.60.840, and must meet the standards for the UI environment SMC 23.60.870.

SMC 23.60.004 - Shoreline Policies

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan's Land Use Element and the purpose and location criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district.

The goals for shoreline use include long-term over short-term benefits, the integration and location of compatible uses within segments of the shoreline, and the location of all non-water dependent uses upland to optimize shoreline use and access. The goals also include providing for the optimum amount of public access – both physical and visual – to the shorelines of Seattle and the preservation and enhancement of views of the shoreline and water from upland areas where appropriate.

SMC 23.60.152 - Development Standards for all Environments

These general standards apply to all uses in the shoreline environments. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. All shoreline development and uses must: 1) minimize and control any increases in surface water runoff so that receiving water quality and shore properties are not adversely affected; 2) be located, designed, constructed, and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area; and 3) be located, constructed, and operated so as not to be a hazard to public health and safety.

The City's Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality. In conjunction with this effort a Director's Rule, 6-93, was developed to apply best management practices (BMPs) to prevent erosion and sedimentation from leaving construction sites or where construction will impact receiving waters. Due to the location of the proposed work, the potential exists for negative impacts to the Duwamish River during construction. To avoid this, the applicant should take measures to prevent contamination of land or water and use materials and construction methods which prevent toxic materials, petrochemicals and other pollutants from entering surface water during and after construction, and prevent any construction debris from entering the water. SMC Section 23.60.064.E provides authority for conditioning of shoreline substantial development permits as necessary to carry out the spirit and purpose of and assure compliance with the Seattle Shoreline Code, Chapter 23.60 and with RCW 90.58.020 (State policy and legislative findings).

The proposal, as conditioned below, would not adversely affect the quality and quantity of surface and ground water on and adjacent to the site on a long-term basis. No planned discharge of solid wastes would occur. Spillage of petroleum or diesel products must be avoided and contained should it occur. No intentional release of oil, chemicals, or other hazardous materials shall occur. Permeable surfaces would not be affected. Erosion would not result from the development. No impacts to fish and wildlife would occur. Natural shoreline processes would not be adversely affected. No long-term adverse impacts to surrounding land and water uses

would occur. No vegetation will be cleared with this proposal. No hazard to public safety or health is posed by this development. Navigation channels would not be affected. The proposal would not affect existing shoreline stabilization and no submerged public right-of-way or view corridors would be significantly affected. There exists; however, the potential for surface water runoff to be adversely affected by fuel tank fueling and truck seepage. In order to reduce accidental fuel out fall into Duwamish River the applicant shall provide maximum source control of stored fuel and during fueling.

These conditions, which are based on the criteria of SSMP 23.60.152, ensure that the project conforms to the goals and regulations of the Seattle Shoreline Master Program. The public interest suffers no substantial detrimental effect from the proposal.

SMC 23.60.220 – Shoreline Environments

The purpose of the Urban Industrial (UI) environment as set forth in SMC 23.60.220C11 is to:

- ◆ Provide for efficient use of industrial shorelines by major cargo facilities and other water-dependent and water-related industrial uses. Views shall be secondary to industrial development and public access shall be provided mainly on public lands or in conformance with an area-wide Public Access Plan.

This proposal will prevent overflows in the event of a power outage. The emergency back-up generator is replacing generators that are old and not dependable. New code requirements prevent the replacement generator from being located inside the existing structure.

SMC 23.60.840 – Uses Permitted Outright in the UI Environment

The Urban Industrial environment permits as a principal or accessory use Public Facilities, water-dependent or water-related. The General Industrial (IG1 U/65') Zone cross-references to the SSMP 23.60 uses and also refers to 23.80 Essential Public Facilities submittal requirements and review criteria.

The proposed project is an accessory to a principal use and meets requirements as described in IG1 U/65' zone and in the UI environment.

SMC 23.60.870 – Development Standards for the Urban Industrial Environment

This proposal would not expand or extend pre-existing conditions. No additional massing or height is proposed to the existing building. No additional views for the shoreline would be blocked. King County currently has applications for emergency backup generators with concrete equipment pads at two other locations on the Duwamish River at 6501 1st Avenue South and 5241 East Marginal Way South. The two other sites do not have space available which is not impervious for mitigation of the riparian habitat for anadromous fish, juvenile salmon, and terrestrial insects. The site at South Portland Street has non-impervious area available adjacent to the Duwamish River which would be appropriate for planting native vegetation to enhance the

riparian habitat. Approximately 400 square feet would be equivalent to the amount needed as mitigation for the three projects and King County staff has agreed to provide native vegetation at South Portland Street for all three projects. Therefore, a shoreline condition will be imposed on the project at South Portland Street as mitigation for all three projects.

In summary, as designed, the proposal is supported by both the purpose of the UI shoreline environment and the policies set forth in the Comprehensive Plan. The principal use would remain consistent with the underlying downtown zoning and in character with surrounding development, and conforms to the general development standards and the requirements of the underlying IG1 U/65' zone.

C. The provisions of Chapter 173-27 WAC

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of SMC Chapter 23.60 is also consistency with WAC 173-27 and RCW 90.58.

Thus, as conditioned below, the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

Conclusion

SMC Section 23.60.064.E provides authority for conditioning of shoreline substantial development permits as necessary to carry out the spirit and purpose of and assure compliance with the Seattle Shoreline Code, Chapter 23.60 and with RCW 90.58.020 (State policy and legislative findings).

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT

The Shoreline Substantial Development permit is CONDITIONALLY GRANTED subject to the conditions listed at the end of this report.

CONDITIONS- SHORELINE SUBSTANTIAL DEVELOPMENT

Prior to Construction

The owner(s) and/or responsible party(y) shall:

1. Notify in writing all contractors and sub-contractors of the general requirements of the Seattle Shoreline Master Program (SSMP 23.60.152), including the requirements set forth in condition 4.
2. Provide a habitat mitigation plan to the Land Use Planner at the Department of Design Construction and Land Use showing 400 square feet of native vegetation which will shade juvenile salmonids and provide a habitat for terrestrial insects for the fish to feed on. The mitigation should include provisions that ensure 80 percent survival of vegetation planted after a period of five years from planting.
3. Provide a **construction** and operation phase containment/clean-up plan for fuel and/or fuel spillage or seepage to the Land Use Planner. Make the plan part of the operational plan of the emergency stand-by generator.

Conditions of Approval during Construction

The following condition(s) to be enforced during construction shall be posted at the site in a location visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions shall be printed legibly on placards available from the Department of Design, Construction and Land Use (DCLU), shall be laminated with clear plastic or other weatherproofing material, and shall remain in place for the duration of the construction.

4. In addition to compliance with the applicable provisions of Section 23.60.152 of the Seattle Shoreline Master Program, the owner(s) and/or responsible party(s) shall exercise care to prevent debris from entering the water during construction and to remove debris promptly if it does enter the water. The applicants shall implement best management practices approved and/or required by the State Department of Ecology (DOE) and the DCLU construction inspector. Materials and construction methods shall be used which prevent toxic materials, debris, waste material, Concrete slurry, petrochemicals, and other pollutants from entering surface water during and after construction. All debris and other waste shall be disposed of in such a way as to prevent entry into Puget Sound.

Prior to Project Completion

5. The owner(s) and/or responsible party(s) shall complete installation of the riparian corridor habitat mitigation required in condition number 2.

For the Life of the Project

6. A structural source control must be installed in addition to the specified double wall fuel tank that is large enough to contain 200 gallons of fuel.
7. Provide a construction and **operation phase** containment/clean-up plan for fuel and/or fuel spillage or seepage as part of the operational plan for the emergency stand-by generator.

Signature: (signature on file) Date: March 6, 2003
Malli Anderson, Land Use Planner
Land Use Services
Department of Design, Construction and Land Use

MA:bg

Anderson/doc/2206883d.doc